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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,088	07/05/2001	In-Sung Choi	P56321	3198

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Robert E. Bushnell
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1522 K Street, N.W.
Washington, DC 20005

EXAMINER

SIDDIQI, MOHAMMAD A

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/898,088	Applicant(s) CHOI, IN-SUNG	
Examiner Mohammad A. Siddiqi	Art Unit 2154	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: _____.


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

- Continuation of 11. does NOT place the application in condition for allowance because: 1. The petition under 37 CFR 1.181 has been considered premature and the petition has been treated as a request for reconsideration.
2. In the light of the forgoing discussion, the Examiner's ultimate legal conclusion is that the subject matter defined by the instant claims would have been obvious within the meaning of 35 U.S.C. 103(a).
3. The Examiner takes note the above Applicant's remark; however, Applicant's remark could not be imported into the claim. Therefore, the Examiner could not consider Applicant's remark.
4. In response to Applicant's argument a, against the references individually, one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case Ref Jenkins (6,002,868) invention relates to a diagnostic testing application comprised of a number of modules which are divided into functional groups (elements fig 2A, col 4, lines 34-43) to test hardware, firmware, and software (col 4, lines 58-60, device driver by definition is a software that controls a device that is connected to, or part of, a computer). Philyaw (6,704,864) invention is related to automatically configuring a computer or components thereof, either hardware or software in response to reading information (configuration of the system includes gathering information from device driver by communication firmware software of hardware, col 23, lines 45-48). Philyaw teaches driver handling programs (col 26, lines 12), storing information at web server (col 26, lines 10-13, receiving the device driver from remote), comparing (col 26, lines 10-13), testing (col 26, lines 10-35), updating (col 26, line 26), and searching device driver information (col 26, lines 30-35, searching based on the MRC code). Therefore it would have been obvious to one of ordinary skill in the art at the time invention is made to combine the teachings of Jenkins and Philyaw because it would provide an architecture for automatic configuring (includes diagnostics or testing, and searching for appropriate resolution if problem occurs) a software of a computer system (software of computer system is device driver) which can be executed remotely on the client machine (both references expressly suggest the claimed invention is to test and configure equipment software which includes device driver and firmware software)
5. In response to applicant's argument b, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., registry problems with device driver information or other problems not directly related to the device driver file itself) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
15. In response to applicant's arguments c), Jenkins teaches a computer comprising a device driver (VxD driver interface is responsible for communication with other device drivers, col 10, lines 26-28 and col 10, lines 46-48), a monitoring unit (front end, col 8, line 40) outputting a diagnostic message (col 8, line 45) to said computer (col 8, line 47).
6. In response to applicants argument d-f), Philyaw teaches driver handling programs (col 26, lines 12), storing information at web server (2500, 2502, fig 25, col 26, lines 10-13, receiving the device driver from remote), comparing (col 26, lines 10-13), testing (col 26, lines 10-35), updating (col 26, line 26), and searching device driver information (col 26, lines 30-35, searching based on the MRC code). Therefore it would have been obvious to one of ordinary skill in the art at the time invention is made to combine the teachings of Jenkins and Philyaw because it would provide an architecture for automatic configuring (includes diagnostics or testing, and searching for appropriate resolution if problem occurs) a software of a computer system (software of computer system is device driver) which can be executed remotely on the client machine (both references expressly suggest the claimed invention is to test and configure equipment software which includes device driver and firmware software)
7. In response to applicants argument for claims 2, 12, 18 and 19, Jenkins discloses a first portion storing said standard driver information (GUI col 8, line 43); a second portion interpreting said device driver information searched by said monitoring unit (front end, col 8, lines 40-45); a third portion performing a diagnosis of said device driver by comparing said standard driver information from said first portion with said device driver information from said second portion (launching and monitoring, col 8, lines 44-46); and a fourth portion displaying the diagnosing result from said third portion to said computer (test status, col 8, lines 46-47,).
8. In response to applicants argument for claims 3, 9, 10, and 20, Jenkins discloses a displaying the error correction result to said computer after automatically correcting the error by said standard diagnosis information stored in said first portion in case of an automatically correctable error (recommended action module, col 8, lines 40-47), said fourth portion displaying how to correct the error to said computer in case of automatically uncorrectable error when the device driver error occurs (displaying all errors and recommended action, col 8, lines 46-53).
9. In response to applicants argument for claims 4, 11, and 13, Jenkins discloses with said monitoring unit being a file of said computer (col 8, lines 26-67, col 4, lines 35-67), said file being a logical block of computer information as designated by a name and treated as a unit (col 8, lines 26-67, col 4, lines 35-67).
10. In response to applicants argument for claims 5, and 14, Jenkins discloses, with said file not being able to be manipulated by a user of said computer (the application contains number of modules, each modules performed assigned tasks, functionality/task of the application can not be changed or updated by the user, user can only manipulates it is on action, col 8, lines 26-53).
11. In response to applicants argument for claims 6, and 15, and 21, Philyaw discloses standard driver information being changeable by an operator of said web server (col 4, lines 43-48 and col 26, lines 10-14).
12. In response to applicants argument for claims 7, 16, and 22, Jenkins discloses with the automatically uncorrectable error being a hardware error of said computer or a device corresponding to said device driver (col 7, lines 45-55).
13. In response to applicants argument for claim 23, Jenkins discloses a correction of the error when the error is automatically correctable and when said first computer opted no correction in said step of prompting a response from said first computer (col 8, lines 56-54); executing no correction of the error when the recommendation is not accepted computer (col 8, lines 40-48); and correcting the error when the recommendation is accepted computer (col 8, lines 26-54).
14. In response to applicants argument for claim 24, the claim is rejected for same reasons as claim 1, above. In addition Jenkins discloses a computer-readable medium having computer-executable instructions for performing method of claim 8 (col 3, lines 15-37).